

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

<b>(1) DEPARTMENT</b> General Services	<b>(2) MEETING DATE</b> 7/17/2012	<b>(3) CONTACT/PHONE</b> Janette D. Pell, General Services Agency Director Jeff Hamm, Health Agency Director 781-5200	
<b>(4) SUBJECT</b> Hearing to consider a proposed ordinance change amending Chapter 8.22 of the County Code to prohibit smoking in certain public places. (Item introduced June 19, 2012.)			
<b>(5) RECOMMENDED ACTION</b> The General Services Agency and the Health Agency recommends your Board approve the ordinance changes to amend Chapter 8.22 of the County Code to prohibit smoking in certain places.			
<b>(6) FUNDING SOURCE(S)</b> Countywide Maintenance Master Level WBS#350077; Parks FC305	<b>(7) CURRENT YEAR FINANCIAL IMPACT</b> Countywide Maintenance WBS#350077 <ul style="list-style-type: none"> <li>• FY 2012-13 \$8,400</li> <li>• FY 2013-14 \$1,600</li> </ul> FC305 Parks <ul style="list-style-type: none"> <li>• FY 2012-13 \$9,800</li> </ul>	<b>(8) ANNUAL FINANCIAL IMPACT</b> \$0.00	<b>(9) BUDGETED?</b> Yes
<b>(10) AGENDA PLACEMENT</b> <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. 60 minutes) <input type="checkbox"/> Board Business (Time Est. _____)			
<b>(11) EXECUTED DOCUMENTS</b> <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
<b>(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)</b>		<b>(13) BUDGET ADJUSTMENT REQUIRED?</b> BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
<b>(14) LOCATION MAP</b>  N/A	<b>(15) BUSINESS IMPACT STATEMENT?</b>  No	<b>(16) AGENDA ITEM HISTORY</b>  <input type="checkbox"/> N/A    Date June 19, 2012	
<b>(17) ADMINISTRATIVE OFFICE REVIEW</b>   			
<b>(18) SUPERVISOR DISTRICT(S)</b> All Districts -			

# County of San Luis Obispo



TO: Board of Supervisors

FROM: General Services / Janette D. Pell  
Health Agency / Jeff Hamm  
781-5200

DATE: 7/17/2012

SUBJECT: Hearing to consider a proposed ordinance change amending Chapter 8.22 of the County Code to prohibit smoking in certain public places. (Item introduced June 19, 2012.)

## **RECOMMENDATION**

The General Services Agency and the Health Agency recommends your Board approve the ordinance changes to amend Chapter 8.22 of the County Code to prohibit smoking in certain places.

## **DISCUSSION**

### Intent of Ordinance Amendment

While not smoking in enclosed spaces has become the social norm, the most recent focus of anti-smoking campaigns has been to ban smoking in outdoor areas. Breathing toxic materials is unhealthy, and there is no safe level of exposure to tobacco smoke. The intent of the ordinance being presented for review by the Board of Supervisors is to ban smoking on many County properties. This includes buildings or structures owned, leased, concessioned or otherwise operated indirectly or directly by the County of San Luis Obispo, and all land appurtenant to those buildings or structures, including, but not limited to, parking lots, walkways, landscapes and patios. This includes portions of County Park lands and facilities where people are in close proximity.

This is a wide reaching effort that would place San Luis Obispo County at the forefront of tobacco control efforts. Many public agencies have smoking ordinance for public grounds and state law prohibits smoking within 25 feet of playgrounds and within 20 feet of entrances to public buildings. Some public agencies have banned smoking in all or portions of their parks.

### Proposed Amended Ordinance

The proposed changes to ordinance will prohibit smoking in all properties that surround County facilities including landscapes, hardscapes, walkways and parking lots around County Facilities. It would also prohibit smoking in County mini parks, neighborhood parks, community parks and special areas. In County regional parks, smoking will be prohibited within 30 feet of any building, playground, tot lot or group picnic area.

### Public, Customer and Park Partners Input

The General Services Agency and the Health Agency Tobacco Control Program have received complaints from residents, as well as employees, about smoking on County grounds. Last year, the Tobacco Control Program staff surveyed employees of programs at the Johnson Avenue site, including Mental Health, Drug and Alcohol, Senior Nutrition, Public Health, Environmental Health, and the Agricultural Commission and found tremendous support for a smoking ban.

The County Parks and Recreation Commission heard a report on banning smoking from County facilities and their adjoining lands on January 6, 2012. The Parks and Recreation Commission supported banning smoking at all County

park and recreation facilities. On February 28, 2012, the Health Commission voted unanimously to support introduction of the draft ordinance to apply a smoking ban to all County facilities and parklands, as it was then written. Both Commissions also supported amending the ordinance to apply to banning the use of all tobacco products.

To gain community input, public meetings were held to review the original Draft Amended Ordinance dated February 23, 2012; the same draft that County Commissions reviewed. In this original draft the smoking ban was for all County facilities including all parks, golf courses and campgrounds. Meetings were held in the Communities of Avila, Cayucos, Santa Margarita, Templeton, San Miguel, Shandon and with the San Luis Port District.

The input and comments received at these meetings appears in Attachment 1. In summary, comments favoring the total smoking ban were outnumbered approximately two to one by those opposing the originally proposed ordinance change. Those who support the smoking ban expressed interest in improving personal and public health, limiting public medical costs and helping smokers stop smoking. Those against the total smoking ban expressed concerns about enforceability, signage, personal rights, financial impacts and/or they tended to feel that less restrictive steps such as public information campaigns or carving out designated smoking areas should be considered prior to amending ordinance.

Input from regional park and golf course customers was received in June 2011. Park patrons who favored banning smoking in parks expressed interest in fire safety and improving personal and public health. Those who were against the amended ordinance expressed concern for infringing on public rights, personal recreational enjoyment and potential impacts to tourism and the local economy. Park respondents strongly supported having areas where smoking would be legal. Golf patrons were evenly split regarding amending this ordinance and expressed strong support for allowing smoking in areas of the courses.

County staff informed important partners in park services of the intended smoking ban and received input from concessionaires (golf courses and lakes), State Parks (Morro Bay G.C., Cayucos properties including the pier, Veterans Hall and beaches; and, Bishop Peak Trail); and Monterey County (Nacimiento Lake). Concessionaires, State Parks and Monterey County Parks expressed strong concerns regarding difficulties in enforcement, potential effects on recreation participation, negative impacts to revenues, enforcement costs and potential confusion with similar properties that they manage without smoking restrictions.

State Parks also expressed concern that the County could not legally prohibit smoking on State Parks properties. In review of the State Parks position, County Counsel has recommended that State Park properties not be included in areas proposed for the smoking ban.

This combined input from community members and those who partner with County Parks in providing recreation services has guided the language of today's proposed amended ordinance. The proposed ordinance does not include a proposal to ban all tobacco products. Staff recommends the ordinance focus on addressing the exposure of individuals to second hand smoke as being the primary health and safety issue associated with tobacco use.

#### Health Agency Tobacco Control Program

There is wide spread recognition that smoking is an addiction and that quitting often requires multiple attempts. Fortunately, the Health Agency Tobacco Control Program has been able to provide cessation classes and other types of support over the past 12 years with good result. At six-month follow ups with class participants, 22% have sustained their 'quit' status, consistent with or better than national norms. Classes are ongoing and will remain available to those who have not as yet taken advantage of the County's medically-supported cessation services.

Attachment 2 provides an historical perspective on the hazards of smoking and efforts to regulate tobacco use.

#### Benefits

There are significant health benefits to prohibiting smoking in facilities and parks. Smoking in outdoor public venues may expose adjacent non-smokers to levels of toxic air and contribute to negative health consequences. In addition to the health impacts there are additional benefits to be achieved. Cigarette butts are an annoying litter item common to facilities and parklands. Cigarette litter left on the ground will take an average of 25 years to decompose while chemicals and additives leach into the groundwater and pollute the soil. Finally, reducing the areas in which people can smoke sets a good example for youth, makes it easier for people to quit, and this helps create a new social norm in which smoking in public becomes less accepted.

### Recommended Exemptions

The recommended changes to the ordinance include authorizing the County Public Health Administrator/Health Officer to designate smoking areas on County lands. It is anticipated that there will be a designated smoking area at the airports.

One area is recommended to be designated exempt is the Psychiatric Health Facility (PHF) unit of the Mental Health division in the Health Agency. This unit houses patients in crisis for 72 hours. These patients are dealing with issues far greater than tobacco addiction and it is recommended that this area be exempt. Smoking would be allowed only in designated areas for patients under treatment.

### Enforcement

One of the issues generally expressed when implementing new ordinance concerns enforcement. This ordinance is designed to be self-enforcing and complaint driven. That is, County staff and enforcement officers will not spend time searching for people smoking. Rather, those who are offended by cigarette smoke are encouraged to politely address nearby smokers directly. Offended parties may also complain directly to County staff. The expectation in many areas is that through signage and ongoing education, people will become aware of the smoking restrictions and most individuals who smoke will obey.

At parks, where County and concessionaire staffs are present, offended customers will also request that staff address smokers directly. This enforcement would be complaint-driven, not through enforcement patrols. This may require a number of Ranger visits to gain compliance. It is anticipated that, over time, the numbers of complaints and required response times will diminish.

### **OTHER AGENCY INVOLVEMENT/IMPACT**

Parks management, the Health Agency, including Health Agency and Public Health administrators and Tobacco Control staff, were consulted and involved in the preparation of this ordinance. County Counsel reviewed and approved the ordinance as to form and legal effect.

On January 6, 2012, the County Parks and Recreation Commission heard a report on banning smoking from County Facilities and their adjoining lands. The Commission recommended that the Board ban the use of all tobacco products in County Parks and Facilities.

County Community Advisory Councils of Avila, Cayucos, Santa Margarita, Templeton, San Miguel, and Shandon as well as the San Luis Port District received staff presentations and opportunities for public input on this topic.

On February 28, 2012, the Health Commission voted unanimously to support introduction of the draft ordinance to apply a smoking ban to all County facilities and parklands, as it was then written. The Commission also supported amending the ordinance to ban the use of all tobacco products.

### **FINANCIAL CONSIDERATIONS**

The financial considerations associated with the proposed ordinance change involve possible changes to park revenues, the need to post appropriate signage at County facilities, parks and trails, publishing the amended ordinance in a newspaper of general circulation and potential limited enforcement costs.

Through customer surveys conducted in June 2011, staff received mixed messages regarding ordinance change impacts to recreational revenues. More visitors said that their use would increase than those who said their use would stop or reduce. The numbers of survey respondents were too low to determine actual impacts. Recreational revenues could increase or decrease as a result of the proposed changes.

Getting the message out can take many forms including: posters, facility permits, campground rules, walkway lettering, brochures and permanent outdoor signs. The County has approximately 120 buildings (some in a campus configuration) and 46 recreational areas including regional parks, numerous community buildings, miles of trails, beaches and local parks and special facilities.

For buildings and facilities, the costs for minimal signage and publication will be funded through Countywide Maintenance master level WBS # 350077 and are estimated at:

- \$8,400 in FY 2012-13 – Publication of the proposed ordinance amendment is estimated at \$400 and initial sign fabrication and installation for those facility areas most impacted is estimated at \$8,000.
- \$1,600 in FY 2013-14 – for signage replacements and follow-up.

For Parks and parklands, the costs will be funded through FC 305 – County Parks. These costs have not been anticipated in the FY 2012-13 budget and will be supported through savings in other planned spending for materials and supplies for the coming year.

- \$9,800 in FY 2012-13 initial sign fabrication and installation for all park entries and regional park buildings, playgrounds, tot lots and group picnic areas.

If approved, the implementation of the amended ordinance would begin in August 2012 through a campaign of signs, posters and brochures. Permanently posted signs would be ordered and installation would commence in September and October 2012. Various website pages would be updated. Informational brochures would be available to County employees and members of the public who visit and/or conduct business in County facilities and parks.

Potential enforcement costs will increase with the numbers of calls received by County staffs. While it is not possible to determine how frequently people will complain of smoking and require a staff action(s) on County properties, most other agencies that have tobacco control ordinances have noted very few calls for action.

## **RESULTS**

Approval of the proposed ordinance change is expected to have the following results:

- Employees and visitors will not be exposed to secondhand smoke on most County property.
- Complaints about smoking on County property may temporarily increase and then decrease.
- Tobacco litter on County property will decrease.

This ordinance supports the County's overall goal of a Healthy Community, which helps to ensure that all people in our community enjoy healthy, successful and productive lives.

## **ATTACHMENTS**